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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,083	10/14/1999	ANTHONY NARISI	TN099	8378

7590 03/16/2004

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BLUE BELL, PA 19424

EXAMINER

CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
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2151

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DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/418,083

Applicant(s)

NARISI ET AL.

Examiner

Andrew Caldwell

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-15, and 17 is/are rejected.
- 7) ☒ Claim(s) 13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Remarks

Claims 1-17 are pending.

At page 6, the specification incorporates by reference various non-patent publications. The Applicants have failed to provide copies of these references, and they have not been considered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s): the subject matter of the last 7 lines of claim 1 and the corresponding subject matter in method claim 15. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

1 patenting ground provided the conflicting application or patent is shown to be commonly
2 owned with this application. See 37 CFR 1.130(b).

3 Effective January 1, 1994, a registered attorney or agent of record may sign a
4 terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
5 37 CFR 3.73(b).
6
7

8 Claims 1-12, 14-15, and 17 are provisionally rejected under the judicially created
9 doctrine of obviousness-type double patenting as being unpatentable over claim 13 of
10 copending Application No. 09/310,543 in view of Narisi et al., U.S. Patent No.
11 6,233,619.

12 This is a provisional obviousness-type double patenting rejection.
13

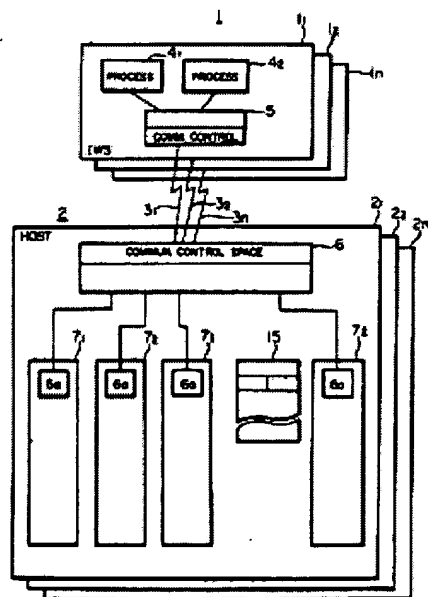
14 Regarding claim 1, claim 13 of the '543 application teaches the invention
15 substantially as claimed. It is noted that the first fifteen lines, up to the "wherein said
16 application," are identical to claim 1 of the '543 application. As to the remaining lines of
17 claim 1 of this application, they are essentially the same as the additional limitations
18 introduced by dependent claim 13 of the '543 application, differing only by the fact that
19 this application refers to a single application utilizing the transport protocols while claim
20 13 of the '543 application refers to multiple applications utilizing the transport protocols.
21 It would have been obvious to one of ordinary skill in the art at the time the invention
22 was made to modify the multiple application system of claim 13 of the '543 application
23 to be a single application system based on the legal precedent that omission of an
24 element and its function is obvious if the function of the element. Ex parte Wu, 10
25 USPQ 2031 (Bd. Pat. App. & Inter. 1989).

As to claims 2-12 and 14, the reasons for rejection should be obvious based on the similarity between the claims of this application and the claims 2-12 and 14 of the '543 application.

As to claims 15 and 17, they are method claims corresponding to apparatus claims 3 and 14, respectively. Since they do not teach or define above the information in the corresponding apparatus claims, they are rejected under the same basis.

Response to Arguments

As to the objection to the drawings, the Applicants' argument, that the feature is somehow too complicated to be displayed, has been fully considered but is not deemed persuasive. Assuming without conceding that the Applicants' invention is embodied in Figure 6. Figure 6 could be modified like the one shown below to include multiple cascaded NT Servers in a manner similar to elements 2₁ to 2_m.



1

2 As to the rejection of 1-13 and 15 under 35 U.S.C. 102(b) as being unpatentable
3 over Szwerinski, the Applicants' arguments filed on December 29, 2003 (paper no. 10)
4 are deemed persuasive. The Applicants first argues that Szwerinski does not teach or
5 suggest that separate I/O subsystems of separate computers communicate over the
6 claimed interconnection that is independent of a network interface card. In Szwerinski,
7 the application processor (Fig. 2 elem. 8) and the I/O processor (Fig. 2 elem. 9) are in
8 the same computer system. The claim language requires first and second computer
9 *systems*, as opposed to processors. So as the Applicants correctly point out,
10 Szwerinski cannot teach separate I/O subsystems of separate computers communicate
11 over the claimed interconnection that is independent of a network interface card since
12 all communication between the application and I/O processors is within the same
13 computer system. The Applicants then argue that Szwerinski does not teach the
14 claimed distributed transport communications manager. The Examiner agrees with the
15 Applicants' supporting reasoning. Accordingly, the rejection has been withdrawn.

16 As to the rejection of 1-13 and 15 under 35 U.S.C. 103(a) as being unpatentable
17 over Narisi, the Examiner agrees with the Applicants' argument beginning at the last
18 paragraph on page 18 and extending to the first complete paragraph on page 19 of the
19 response. Accordingly, the rejection has been withdrawn.

20 As to the provisional double patenting rejection, the provisional double patenting
21 rejection has been changed to be based on claim 13 of the '543 application. The

Applicants' arguments are therefore moot in view of the new grounds for the provisional rejection.

Conclusion

A shortened statutory period for response to this action is set to expire **three months** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Caldwell, whose telephone number is (703) 306-3036. The examiner can normally be reached on M-F from 9:00 a.m. to 5:30 p.m. EST.

If attempts to reach the examiner by phone fail, the examiner's supervisor, Glenton Burgess, can be reached at (703) 305-4792. Additionally, the fax numbers for Group 2100 are as follows:

Fax Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-9600.



Andrew Caldwell
703-306-3036
March 11, 2004